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9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:) CFL LICENSE NO.: 603 1716
)
12 THE COMMISSIONER OF BUSINESS) CITATION
OVERSIGHT,) (Financial Code section 22707.5)
)
14 Complainant,)
)
15 v.)
)
16 JOHNSON & JOHNSON FINANCE)
CORPORATION,)
)
18 Respondent.)
19 _____)

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21 Jan Lynn Owen, the Commissioner of Business Oversight (Commissioner), finds the
22 following:

23 I.

24 **Factual Background**

25 1. The Commissioner as the chief officer of the Department of Business Oversight
26 (Department) has jurisdiction over the licensing and regulation of persons and entities engaged in the
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1 business of finance lending under the California Financing Law (CFL)¹ (Fin. Code, § 22000 et seq.)
2 and the regulations promulgated under title 10 of the California Code of Regulations (Cal. Code
3 Regs., tit. 10, § 1404 et seq.).

4 2. The Commissioner issued a finance lenders license under the CFL to Johnson &
5 Johnson Finance Corporation (JJFC), a New Jersey corporation, on July 1, 1995, license number 603-
6 1716. JJFC's principal place of business is located at 501 George Street, New Brunswick, New Jersey
7 08901.

8 3. On September 30, 2015, the Commissioner through her staff, served JJFC at the
9 address on file with the Commissioner, with the Assessment Notice for the fiscal year 2015 – 2016.
10 The assessment fee in the amount of \$250.00 was due on or before October 31, 2015. The
11 Department did not receive the assessment payment from JJFC.

12 4. On December 8, 2015, effective December 30, 2015, the Commissioner issued an
13 order summarily revoking JJFC's finance lenders license for failing to pay the 2015 – 2016 annual
14 assessment fee (Order), as required by Financial Code section 22107. The Order along with a cover
15 letter dated December 8, 2015, was served via certified return receipt mail at JJFC's address on file
16 with the Commissioner. JJFC was informed that its license would be revoked, effective December 30,
17 2015, if the annual assessment payment was not received on or about December 29, 2015. JJFC failed
18 to respond to the Commissioner's demand for payment of the 2015 – 2016 assessment fee.

19 5. On December 4, 2017, the Commissioner received a petition for reinstatement of
20 JJFC's lenders license. JJFC asserted that its "Tax Department went through a major reorganization"
21 during the 2015 tax year and it "inadvertently missed the Annual Assessment Fee." JJFC also claimed
22 that it "did not realize this until sometime in March of 2017."

23 6. During the review process it was discovered that JJFC made five finance leases during
24 the period from December 31, 2015 to the present. JJFC stated that the leases "were all incidental to
25 JJFC's normal business operations and intended business purpose." Financial Code section 22100,
26 subdivision (a) requires any person who engages in the business of a finance lender or broker to
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¹ Effective October 4, 2017, the name of the "California Finance Lenders Law" changed to the
"California Financing Law." (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.)

1 obtain a license from the Commissioner. JJFC’s finance lenders license was summarily revoked on
2 December 8, 2015, effective December 30, 2015. Under Financial Code section 22050, subdivision
3 (e), licensure “does not apply to any person who makes five or fewer loans in a 12-month period,
4 these loans are commercial loans as defined in Section 22502, and the loans are incidental to the
5 business of the person relying upon the exemption.”

6 **II.**

7 **Violation of the CFL**

8 7. JJFC failed to pay the annual assessment fee for the fiscal year 2015 – 2016, as
9 required by Financial Code section 22107, subdivision (a). Failure to pay the assessment fee
10 constitutes grounds to revoke the certificate issued to JJFC.

11 8. Financial Code section 22107 provides in relevant parts:

12 (a) Each finance lender and broker licensee shall pay to the
13 commissioner its pro rata share of all costs and expenses,
14 including the costs and expenses associated with the
15 licensing of mortgage loan originators it employs,
16 reasonably incurred in the administration of this division,
17 as estimated by the commissioner, for the ensuing year and
18 any deficit actually incurred or anticipated in the
19 administration of the program in the year in which the
20 assessment is made. The pro rata share shall be the
21 proportion that a licensee’s gross income bears to the
22 aggregate gross income of all licensees as shown by the
23 annual financial reports to the commissioner, for the costs
24 and expenses remaining after the amount assessed pursuant
25 to subdivision (c).

26 (b) On or before the 30th day of September in each year,
27 the commissioner shall notify each licensee of the amount
28 assessed and levied against it and that amount shall be paid
by October 31. If payment is not made by October 31, the
commissioner shall assess and collect a penalty, in addition
to the assessment, of 1 percent of the assessment for each
month or part of a month that the payment is delayed or
withheld.

(c) In the levying and collection of the assessment, a
licensee shall neither be assessed for nor be permitted to
pay less than two hundred fifty dollars (\$250) per licensed
location per year.

1 (d) If a licensee fails to pay the assessment on or before the
2 31st day of October, the commissioner may by order
3 summarily suspend or revoke the certificate issued to the
4 licensee. If, after an order is made, a request for a hearing is
5 filed in writing within 30 days, and a hearing is not held
6 within 60 days thereafter, the order is deemed rescinded as
7 of its effective date. During any period when its certificate
8 is revoked or suspended, a finance lender or broker licensee
9 and any mortgage loan originator licensee employed by the
10 finance lender or broker shall not conduct business
11 pursuant to this division except as may be permitted by
12 order of the commissioner. However, the revocation,
13 suspension, or surrender of a certificate shall not affect the
14 powers of the commissioner as provided in this division.

10 (e) The commissioner shall, by rule, establish the timelines,
11 fees, and assessments applicable to applicants for original
12 mortgage loan originator licenses, license renewals, and
13 license changes under this division.

13 (f) Notwithstanding subdivisions (a) to (e), inclusive, the
14 commissioner may by rule require licensees to pay
15 assessments through the Nationwide Mortgage Licensing
16 System and Registry.

16 **III.**

17 **Citation**

18 9. Financial Code section 22707.5 authorizes the Commissioner to issue a citation not
19 exceeding \$2,500.00 for each violation of any provision of the CFL or any rule or order thereunder.
20 Section 22707.5 provides:

21 (a) If, upon inspection, examination, or investigation, the
22 commissioner has cause to believe that a licensee or other
23 person is violating any provision of this division or any rule
24 or order thereunder, the commissioner or his or her
25 designee, may issue a citation to the licensee or person in
26 writing, describing with particularity the basis of the
27 citation. Each citation may contain an order to correct the
28 violation or violations identified and provide a reasonable
time period or periods by which the violation or violations
must be corrected. In addition, each citation may assess an
administrative fine not to exceed two thousand five
hundred dollars (\$2,500) that shall be deposited in the State
Corporations Fund. In assessing a fine, the commissioner
shall give due consideration to the appropriateness of the

1 amount of the fine with respect to factors including the
2 gravity of the violation, the good faith of the person or
3 licensees cited, and the history of previous violations. A
4 citation issued or a fine assessed pursuant to this section,
5 while constituting punishment for a violation of law, shall
6 be in lieu of other administrative discipline by the
7 commissioner for the offense or offenses cited, and the
8 citation and fine payment thereof by a licensee shall not be
9 reported as disciplinary action taken by the commissioner.

10 (b) Notwithstanding subdivision (a), nothing in this section
11 shall prevent the commissioner from issuing an order to
12 desist and refrain from engaging in a specific business or
13 activity or activities, or an order to suspend all business
14 operations to a person or licensee who is engaged in or who
15 has engaged in continued or repeated violations of this
16 division. In any of these circumstances, the sanctions
17 authorized under this section shall be separate from, and in
18 addition to, all other administrative, civil, or criminal
19 remedies.

20 (c) If, within 30 days from the receipt of the citation, the
21 licensee or person cited fails to notify the department that
22 he or she intends to request a hearing as described in
23 subdivision (d), the citation shall be deemed final.

24 (d) Any hearing under this section shall be conducted in
25 accordance with Chapter 5 (commencing with Section
26 11500) of Part 1 of Division 3 of Title 2 of the Government
27 Code .

28 (e) After the exhaustion of the review procedures provided
for in this section, the commissioner may apply to the
appropriate superior court for a judgment in the amount of
the administrative fine and an order compelling the cited
licensee or person to comply with the order of the
commissioner. The application, which shall include a
certified copy of the final order of the commissioner, shall
constitute a sufficient showing to warrant the issuance of
the judgment and order.

Based on the foregoing findings, Johnson & Johnson Finance Corporation's failed to pay the
annual assessment for the fiscal year 2015 – 2016 in violation Financial Code section 22107,
subdivision (a). The Commissioner hereby assesses Johnson & Johnson Finance Corporation an
administrative fine of \$2,500.00 pursuant to Financial Code section 22707.5 subdivision (a) which
shall be payable in the form of a cashier's check or Automated Clearing House deposit to the
Department of Business Oversight and transmitted to the attention of Accounting – Litigation, at the

1 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice
2 of this payment must be sent to Marlou de Luna, Senior Counsel, 320 West 4th Street, Suite 750, Los
3 Angeles, California 90013.

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5 Dated: March 26, 2018

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JAN LYNN OWEN
Commissioner of Business Oversight

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By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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